IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22992 of 2006

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJASHREE POLYFIL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR KM PATEL for Petitioner(s) : 1,
MR SP HASURKAR, AGP for Respondent(s) : 1,
Respondent(s) : 2 SERVED ,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 19/12/2006

ORAL JUDGMENT

Heard the learned advocates.

Feeling aggrieved by the Government Notification dated 1st July, 2006, the petitioner-Industry has preferred the present petition.

It appears that the respondent No.2 was a workman engaged by the petitioner-Industry. His service came to be terminated on disciplinary grounds. Feeling aggrieved by the termination of his service, the workman has raised industrial dispute which came to be referred to the Labour Court, Bharuch and registered as Reference No.66/2005. Pending the said reference, by the impugned Notification, the State Government has, in exercise of powers conferred by Section 33B of the Industrial Disputes Act, 1947, withdrawn the said reference from the Labour Court, Bharuch and has transferred the same to the Labour Court, Vadodara.

Mr.Patel has challenged the impugned order. He has submitted that the petitioner-Industry is situated at Bharuch. There is no justification for transferring the proceedings from the Court at Bharuch to the Court at Vadodara. He has relied upon the judgment of the Hon'ble Supreme Court in the matter of **Management of M/s. M.S.Nally Bharat Engg.**

Co. Ltd. v/s. State of Bihar and others [1990 II LLJ 211]. He has submitted that in any view of the matter before the State Government made the order of withdrawal of the proceeding under Section 33B of the Act, the petitioner-Industry ought to have been afforded opportunity of hearing.

In answer to the notice issued by this Court, the State Government has entered appearance. Mr.Hasurkar has submitted that the impugned order for withdrawal of proceeding and transferring the same to the Labour Court, Vadodara has been made pursuant to the application made by the respondent No.2 workman. He, however, admits that the petitioner-Industry had not been given opportunity of hearing before the impugned order came to be made.

In the aforesaid circumstances, the petition is allowed. The impugned Notification dated 1st July, 2006 passed by the State Government is quashed and set-aside. Rule is made absolute. There shall be no order as to cost.

It is clarified that the State Government shall be at liberty to consider and decide the application for transfer made by the respondent No.2 workman afresh after affording opportunity of hearing to the petitioner-Industry.

(Ms. R.M.Doshit, J.)

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